THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No. 6612 OF 1996

Date: 28.11.2006

Between:

Cherukuri Nagaiah.

… Petitioner.

And

Govt. of A.P. rep., by its Secretary, Revenue (Assignments-II) Department, Secretariat Buildings, Hyderabad and three others.

… Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No. 6612 OF 1996

ORDER:

This writ petition is filed to quash G.O.Ms. No. 148 dated 04.02.1992 only to the limited extent the petitioner was asked to pay market value for regularizing the encroachment of Ac.0.48 cts of land in Survey No. 104/2A of Nagandla Village, Inkollu Mandal, Prakasam District.

Smt. A. Chaya Devi, learned Counsel for the petitioner would refer to para 26-A of the A.P. Board Standing Orders which relates to exchange of land at the disposal of the Government for private land and to sub-clause (1) thereunder which provides that the land at the disposal of the Government may be granted in exchange for the land owned privately where a river or waterway, cart-track has changed its course through a private holding and the owner is willing to relinquish the land covered by the actual course in exchange for the portion registered in the accounts as river, etc.

Learned Counsel would submit that having noted in the preamble of the order that the petitioner had encroached over an extent of Ac.0.94 cts of land in Survey No. 104/2 of Nagandlal village, the Government had acted illegally in restricting the regularization only to Ac.0.48 cts of land and that too on payment of market value.

Para 26-A of the Board Standing Orders enables the Government to grant land in exchange for private land over which

a river or a water way has changed its course. Since para 26-A of the Board Standing orders is an enabling provision, it is for the government to exercise its discretion and not for this Court to issue a mandamus to the Government to exchange the land free of cost. I see no illegality in the order of the Government, in G.O.Ms. No. 148 dated 04.02.1992, in directing regularization of Ac.0.48 cts of land encroached by the petitioner on payment of market value. The government has granted relief only of regularisation to an extent of Ac.0.48 cts of land as against the extent of Ac.0.94 cts of government land encroached by the petitioner. For the remaining extent of Ac.0.46 cts, which the petitioner has admittedly encroached upon, it is open for the petitioner to submit an application, to the authorities concerned, under Para 26-A of the A.P. Board Standing Orders and, on receipt of such representation, the authorities shall pass orders in accordance with law within a period of three months from the date of receipt of such representation.

Subject to the above observations, the writ petition is disposed of. No costs.

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Date: 28.11.2006 RAMESH RANGANATHAN, J

MRKR